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JAMES H. McKENNEY,
Clerk.

In the Supreme Court of the United States.

OCTOBER TERM, ~~1901~~, 1902.

SAMUEL BELL, PETITIONER,
v.
THE COMMONWEALTH TITLE INSURANCE and Trust Company. } No. ~~162~~ 191.

PETITION FOR WRIT OF CERTIORARI.

In the Supreme Court of the United States.

OCTOBER TERM, 1901.

SAMUEL BELL, PETITIONER,
v.
THE COMMONWEALTH TITLE INSURANCE and Trust Company. } No. ——.

PETITION FOR WRIT OF CERTIORARI.

Comes now the Solicitor-General, on behalf of the United States, and respectfully shows to this court as follows:

First. On December 28, 1896, a bill in equity was filed by The Commonwealth Title and Trust Company against the petitioner, Samuel Bell, clerk of the circuit court of the United States for the eastern district of Pennsylvania, alleging, inter alia, that "said company is engaged in the business of insuring titles to real estate, in making searches for liens and encumbrances against the same; *in giving certificates as to the condition* of such real estate as regards the existence of liens against the same in any of the courts of the Commonwealth, including the courts of the United States."

That "it is impossible for complainant to insure titles safely or to examine into or to certify to its

customers the condition of the titles or to the amount of encumbrance against the properties they desire to acquire, without searches of indices and cross indices of the judgment records so kept by said court."

The prayer of said bill was for a decree, directing the petitioner as clerk of the circuit court to permit the properly authorized representative of complainant "to have access to the judgment indices and cross indices kept by him in such way and manner as *will enable the plaintiff to prosecute its business as an insurer of titles* and investigator of encumbrances against properties in the city of Philadelphia."

Second. A demurrer was filed to this bill on October 20, 1896, which the court, Dallas, J., overruled with leave to answer. Subsequently an answer was filed and testimony taken on July 10, 1899. The cause was argued before Judge McPherson on pleadings and proof. Later a reargument was ordered, and on November 14, 1900, such reargument was had before Judges Dallas and McPherson, and on January 3, 1901, Judge Dallas filed an opinion granting the prayer of complainant, Judge McPherson dissenting. On June 17, 1901, the following decree was entered: "And now, this 16th day of January, 1901, this case having come on to be heard upon pleadings and proofs, and having been argued by counsel, it is ordered, decreed, and adjudged that the respondent shall permit the properly authorized representatives of the complainant to inspect and examine the judgment indices and cross indices kept by the respondent as clerk of the circuit court of the United States for the

eastern district of Pennsylvania in such way and manner as will enable the complainant *to prosecute its business as an insurer of titles* and subject to the following restrictions:

1. The inspection and examination must in each instance relate and be confined to a transaction or transactions which at the time being shall be current or depending; and

2. Such inspection and examination shall be made only at such times and under such circumstances as will not interfere with the respondent or his assistants in the discharge of their duties or with the exercise of the right of other persons to have access to said indices and cross indices.

Third. An appeal was taken from the above decree to the circuit court of appeals for the third circuit, and on March 18, 1901, the cause was argued before Judges Acheson, Gray, and Buffington, and on September 27, 1901, Judge Acheson filed an opinion affirming the decree entered by Judge Dallas.

Fourth. The principal point relied upon by your petitioner in support of his said appeal was that the learned judge failed to recognize the distinction between the right of an individual to examine the indices and cross indices in a matter in which he is personally interested and the right of a corporation organized for profit to make such examination with a view subsequently to use the information thus obtained for the private gain of such corporation by issuing guaranteed

certificates of search to take the place of searches provided for by the act of Congress, and thus deprive the United States of the fees resulting therefrom.

Fifth. Your petitioner is advised, believes, and therefore avers, that the said opinion of the circuit court of appeals and judgment passed thereon are erroneous, and should be reviewed by this court for the following reasons:

(*a*) The learned court failed to recognize the practical effect of a decree which permits a title company to issue for private gain a certificate in which they guarantee against any liens on specific property in the courts of the United States, thereby substituting a search of a private corporation for the searches provided for by law, and depriving the clerks of the courts of the United States of the revenue expressly given them for such work, thus practically annulling the fee bill provided for in the same statute.

(*b*) The provision of the act of August 1, 1888 (25 Stat. L., 357), that "The clerks of the several courts of the United States shall prepare and keep in their respective offices complete and convenient indices and cross indices of the judgment records of said courts, and such indices and records shall at all times be open to the inspection and examination of the public," is to be construed in the light of the common law rules relating to the public inspection of records; that this right does not extend to one seeking to examine the same for his own private gain and to the detriment of the United States. It is to be noted that it is not the purchaser or the person about to make a loan that

is asking the right of inspection, but a corporation engaged in the business of issuing certificates as to the existence of liens in the courts of the United States. These companies have, in the past, been able to certify to the existence of such liens after they have secured a regular search from the clerks and paid for the same, and have been able to make money out of their business, but they now claim the right to examine the indices and make copies of the same, from which they can issue a certificate of search to take the place of that granted by the clerk and thus, under a provision granting the right of inspection, take away fees given by the same act to the United States for this service.

(*c*) The decisions in the following States have declared it to be the law that such corporations shall not be allowed to abstract records for profit in their private business without paying the usual compensation to the clerks:

Colorado: *Bean* v. *People*, 7 Col., 200.

Georgia: *Buck* v. *Collins*, 51 Ga., 391; *Land Title* v. *Tanner*, 99 Ga., 470.

Alabama: *Phelan* v. *State*, 76 Ala., 51.

Kansas: *Cormack* v. *Wolcott*, 37 Kans., 391.

Virginia: *Keller* v. *Stone*, 96 Va., 667.

North Carolina: *Newton* v. *Fisher*, 98 N. C., 20.

Maryland: *Belt* v. *Abstract Co.*, 20 Atl. Rep., 982.

Pennsylvania: *Commonwealth* v. *Passenger Railway Co.*, 134 Pa., 239.

(*d*) On November 25, 1885, Hon. A. H. Garland, the then Attorney-General, wrote a letter to the

United States attorney at Indianapolis, wherein he states as follows: "The Government must retain its right to its own fees. By its fee bill it has fixed a charge against all persons who ask for searches for information within the exclusive control of the Government's officer. By the collection of these and other fees, the Government is enabled to pay its officers and forbids the practice of any private ingenuity to deprive the Government of its right to these fees as an injury to the Government which must be enjoined." Acting upon that letter, the United States attorney for the district of Indiana filed a bill asking for orders restraining unauthorized persons from using the indices in the case of *United States* v. *Anderson* This case was heard before Judge Walter Q. Gresham, and, after a full hearing, decided in favor of the United States.

(*e*) In this particular district the hardship of this decision is seen from the evidence in the case, where it appears that the receipts of the clerks' offices from the searches given such title companies amount to nearly 50 per cent of the whole receipts of the office, and the consequent loss under the decree of the court will be such that the revenues from all sources will not be sufficient to pay the clerks for their work, a great part of which is the preparation of the records and the entry of proceedings from which these very indices are made. How far this will affect the fees and receipts of other districts is not known, but this decision will certainly deprive the clerks in each of the circuit and district courts of the United States

of the fees expressly provided by Congress, for it will enable these companies, for their own private gain, to substitute, after an examination of the indices, a search of their own. This result was never contemplated by Congress when it provided for an individual the right to examine an index to see how far it affected him personally. While there is not a conflict between two circuit courts of appeal, it is submitted that there was a dissenting opinion in the circuit court in this case, and the contrary opinion of Judge Gresham in the circuit court of Indiana. As the case affects the rights of the clerks in each and every district and circuit court of the United States, it is submitted that the question is one of sufficient gravity to warrant its being passed upon by this court.

Wherefore, your petitioner prays that this honorable court may be pleased to grant a writ of certiorari to said circuit court of appeals for the third circuit to bring up this case for its review and determination, and for such other and further proceedings as it may direct.

JOHN K. RICHARDS,
Solicitor-General.

JAMES M. BECK,
Assistant Attorney-General.

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Office Supreme Court U. S.
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Clerk.

No. 463. 1901

(By. of Atty. Gen. Pickards
(Beck) for Petitioner

In the Supreme Court of the United States.

OCTOBER TERM, 1901.

Filed Nov. 25, 1901.

SAMUEL BELL, PETITIONER,
v.
THE COMMONWEALTH TITLE INSURANCE and Trust Company. } No. 463.

PETITION FOR WRIT OF CERTIORARI.

BRIEF ON BEHALF OF PETITIONER.

JOHN K. RICHARDS,
Solicitor-General.
JAMES M. BECK,
Assistant Attorney-General.

In the Supreme Court of the United States.

OCTOBER TERM, 1901.

SAMUEL BELL, PETITIONER,
v.
THE COMMONWEALTH TITLE INSURANCE and Trust Company. } No. ——.

PETITION FOR WRIT OF CERTIORARI.

BRIEF ON BEHALF OF PETITIONER.

This application presents a question of some importance to the revenues of the Government. It is, moreover, a question about which, under similar laws, both the Federal courts and the courts of the various States have differed widely in their conclusion, and it is desirable that, so far as the Federal courts are concerned, there should be a final conclusion.

The question, in brief, is the right of a corporation engaged in the business of insuring titles to real estate to have access to the records of the court for the purpose of selling the information thus acquired for profit. They claim the right to thus divert the revenues of the Government and to discharge the duties of the clerks of the courts under the following acts of Congress:

Section 828 of Revised Statutes is, as the court will remember, the clerks' fee bill.

Section 823 declares that "the following, and no other, compensation shall be taxed and allowed to attorneys, * * * clerks of the circuit and district courts, marshals, etc., * * * except in cases otherwise expressly provided by law." Sections 824 to 827 have reference to the fees of attorneys, solicitors, and proctors; and section 828 has reference specifically to clerks' fees. Among the specific services for which the clerks are given fees, they are allowed:

> *For every search of any particular mortgage, judgment, or other lien, fifteen cents.*
>
> *For searching the records of the court for judgments, decrees, or other instruments constituting a general lien on real estate, and certifying the result of such search, fifteen cents for each person against whom such search is required to be made.*

Then, after two other provisions for their compensation, it is provided:

> *All books in the office of the clerk of the circuit and district courts, containing the docket or minute of the judgments, or decrees thereof, shall, during office hours, be open to the inspection of any person desiring to examine the same, without any fees or charge therefor.* (Section 828, Revised Statutes)

It is to be noted that not all the books are to be open for inspection, but only those books which contain "the docket or minute of the judgments or decrees" of the courts. The indices are not "the docket or minute of the judgments or decrees," and it follows that they are not among the books which the clerks are required by this section to keep open for inspection. The judgment indices are, properly speaking, only the

books by which reference may be made to the particular judgments appearing in the dockets and minutes; the indices are merely the lists, or catalogues, as it were, of the judgments appearing in the several dockets.

Section 828, as we have seen, provides that the books "containing the docket or minute of the judgments or decrees" shall be open to inspection "without any fees or charge therefor." The reason for this provision is obvious. The particular litigant should be allowed access free of charge to the docket exhibiting the judgment in his favor or against him. Nay, more, the public as well as the litigant in a particular case are directly interested in knowing what the judgment or decree of the court has been. As regards the indices, however, the rule would reasonably be different. They are kept primarily for the benefit of the clerk and only secondarily for the benefit of the public. They are especially part of the working plant of the clerk's office, and they form the means by which he makes the searches for which he is allowed compensation in the fee bill. There was, consequently, good reason for a different rule as to the inspection of the indices, and when in 1888 Congress came to provide specifically for them it was only natural that it should omit in the later legislation the words "without any fees or charge therefor."

The act of 1888 provides, first, that judgments and decrees rendered in a circuit or district court of the United States shall be liens upon property throughout such State, in the same manner, etc., as if such

judgments and decrees had been rendered by a court of general jurisdiction of such State; and, secondly, "*that the clerks of the several courts of the United States shall prepare and keep in their respective offices complete and convenient indices and cross indices of the judgment records of said court; and such indices and records shall at all times be open to the inspection and examination of the public.*" Act of August 1, 1888, section 2 (25 Stat. L., 357).

The words "*without any fees or charge therefor*" are nowhere to be found.

The complainant must found his case upon a statutory right. If there can be said to have been any rule of common law upon the subject, it was that the right to inspect public records was confined to a person having some direct interest in the particular record sought to be inspected or copied, and that the right did not extend to one seeking to do so from mere curiosity or for his own private gain.

1 Greenl. Ev., 473, 475.
Hanson v. *Eichstædt*, 35 N. W. Rep., 31.
State et rel., etc., v. *Rashac*, 35 N. W. Rep., 7.
Cormac v. *Wolcott*, 15 Pac. Rep., 245.

In *Brewer* v. *Watson*, where no statute was relied upon, the court stated the rule as follows:

> The individual demanding access to and inspection of public writings must not only have an interest in the matters to which they relate, a direct, tangible interest, but the inspection must be sought for some specific and legitimate purpose. The gratification of mere curiosity,

or motives merely speculative, will not entitle him to demand an examination of such writings. (1 Wharton on Ev., 745; *King* v. *Merchant Tailors' Co.*, 2 Barn. & Ad., 115; *King* v. *Justices Stafford and Shire*, 6 Ad. & Ellis, 84; *Ex parte Briggs*, 1 Ell. & Ell., 881 (102 Com. Law, 879); *People* v. *Walker*, 9 Mich., 328; *Brewer* v. *Watson*, 71 Ala., 305, 1882.)

The question, therefore, is one entirely of statutory construction, and in determining the complainant's rights the fee bill and the other provisions of the law must be read together. Congress has said that the indices shall be open to inspection, but it has also said that the clerks of the courts shall, for the proper maintenance of their offices, issue certificates of search and be paid for them at a fixed rate. The right of inspection must not, therefore, defeat the right of the clerk to his legal maintenance, and the statute directing that the indices shall be open to inspection must be so read as not to be repugnant with the law directing the clerk to charge a fixed amount for his certificates of search. If Congress had provided that the indices should be open to the inspection and examination of the public *so that companies might make transcripts from them in order to engage in the business of selling certificates of search*, the provision would, of course, have been in conflict with the provisions in the fee bill. The act of 1888 would in that event have been an amendment *pro tanto* of section 828, Revised Statutes. But both acts can be read together, for the later law gives no right to copy or to make such use of the indices. There was,

therefore, no amendment intended, and the court must give to both utterances of the legislature their proper force.

The question involved in this case is far-reaching in its results, as it affects the proper maintenance of the offices of the clerks of the courts in each judicial district throughout the United States.

The practical effect of the decree entered herein, if it be permitted to stand, will be to give to the Commonwealth Title Insurance and Trust Company, and similar organizations, a source of revenue derived from the work of the clerks and their assistants; it practically annuls the statutes of the United States relating to fees for searches, which fees were provided as a source of revenue to said offices, of which the clerks should be paid for, *inter alia*, the preparation and preservation of these very indices.

That such would be the effect of this decree was clearly shown by the testimony taken in this cause, from which it appears that over one-half of the revenue of the offices of the clerks in this district is derived from the fees for searches, and all but a very trifling part of these fees come from the title companies.

It seems clear, therefore, that the burden is upon the party making a claim of right to use the court records for purposes of private gain and to the detriment of the custodian of the same, to show a clear right to do so.

To shift the burden the complainant below relies

upon section 828 of the Revised Statutes and the act of Congress of August 1, 1888.

The question is one of statutory construction. What is the true interpretation of the words "inspection and examination" used in the sections above quoted? As the court well knows, the cardinal rule of statutory construction is to discover and declare the intent of the lawmakers. Did Congress contemplate or intend that a corporation such as the complainant should have the free access which it demands to inspect and examine the indices and records in the clerk's office? We think not. We urge that if such permission were granted it would be an usurpation of the powers, duties, and rights of the clerk, by the practical establishment of another clerk's office, and a diversion of the fees and earnings of the office properly chargeable under the fee bills, and which primarily belong to the United States. (See Mr. Lincoln's statement, p. 11 of printed testimony.)

In seeking the true meaning of the provision of section 2 of the act of August 1, 1888, we must at the same time consider the last paragraph of section 828, Revised Statutes. The language used in both laws is almost identical. Section 828 is virtually a revenue act, and as such must be liberally construed in favor of the United States. It is subentitled "Clerk's fees," and provides in some eighteen distinct paragraphs for the fees of the clerks. It is submitted that, since its foundation, the unvarying custom of the Government has been to have its offices self-sustaining. In almost

every office, therefore, by various acts of Congress, fee systems have been established.

While there may be no "patent or copyright" in the court records kept by the clerk, Congress has as much right to use them as a means of raising a revenue for the expenses of the courts as it has to grant a patent or copyright, and to limit the use of them as it limits the use of patented or copyrighted articles, and just as much as is necessary to serve its purposes in either case. By authorizing a fee for searches within the custody of the clerk, Congress has indicated its purpose to create a revenue from that source.

The defendant in this case does not receive a certain and specified salary. His compensation for the full, faithful, and sworn discharge of his duties is *entirely dependent* upon the amount of fees and earnings of his office. In addition to those services for which the clerk is permitted to make a charge, he is obliged to perform many other duties for which no fees are chargeable. And while Congress has not provided that every service rendered to parties in the office shall be subject to charge, it is provided that *certain services* shall be rendered by the clerk of the court and *a fixed amount be charged and collected* for such services, and that the fund derived from these only shall constitute the emoluments of his office.

The liability of the clerk and his sureties on his official bond, as well as his individual liability for a portion of the amount of the bond and to the full extent of the damages sustained by any person for any

error or omission of duty by him or his deputies, should be considered in connection with the method and amount of compensation allowed by Congress in determining the purpose and extent of the privilege of free inspection and examination of the records in his office to be allowed to the public.

Under sections 2 and 3 of the act of February 22, 1875 (First Supp., Rev. Stats., p. 65, 2d edition), provision is made for the amount of bond to be entered into by the clerk and his sureties.

The bond given by the petitioner in this case, and now in force, is in the sum of $20,000, which, under the provisions of the act above quoted, can be increased to $40,000 upon the demand of the Attorney-General.

The question here involved has frequently been before the courts, and, although the decisions are not uniform, the majority uphold the position of the petitioner in this case.

In the case of *Bean* v. *The People*, 7 Colorado Rep., 200 (1883), the language of the State statute providing for the public inspection and examination of records is much broader than that used in the statutes now under consideration. The case came before the court on mandamus, and in deciding the same said:

> The principal question presented by the record in this case is one of statutory construction purely. Section 667 of the general statutes provides that the county clerk shall keep his office "open during the usual business hours, Sundays and legal holidays excepted, and [that] all books and papers required to be kept in his

office shall be open for the examination of any person."

The cardinal rule of statutory construction is to declare the intent of the lawmakers. Counsel for the defendant in error contend that the section above mentioned needs and will admit of no construction. That the words "any person" used therein include each and every individual who may choose to demand an inspection of the county records. But we are not prepared to accept this conclusion; we feel confident that an examination of the statute is proper with the view of determining whether or not the legislature intended to grant the privilege here claimed.

Relators in this case assert the right under the law to examine and abstract the entire records of Gunnison County for the sole purpose of securing future private emolument from the sale of abstracts thus obtained; they do not seek information concerning a tract of land in which they themselves, or parties whom they represent, have or expect to have an interest.

Their business is permanent; to carry it on successfully they must not only by themselves or agents occupy the clerk's office for weeks, perhaps months, in abstracting the instrument already recorded, but they must also be there daily thereafter abstracting the conveyances filed from day to day. Their interruption and annoyance of the clerk are not temporary; they are continuing and permanent.

It matters not that the relators required no aid from him, for he is charged by statute with

the safe-keeping and preservation of the records, and is responsible for their truthfulness and freedom from mutilation. A single stroke of the pen, the erasure or addition of a single word, may change the character of the conveyance or destroy the most valuable property right. The clerk is unfaithful to his trust if he allows one of the record books to remain for an instant in the hands of a stranger out of his sight. If he performs his whole duty he must watch each and every person who examines or abstracts a single title record.

Did the legislature contemplate a business such as that of the relators and intend to impose upon the clerk these duties and responsibilities therewith? Did they intend to say to him: "You must give relators, gratis, a part of your time and attention on each and every weekday during your term of office?" If one person or partnership may subject him to this inconvenience, labor, and annoyance others may do the same; the abstract business is lawful and in populous counties usually quite a number of individuals or firms engage therein. The clerk's entire time might be monopolized in this way, and yet he is allowed no compensation therefor. * * *

It is urged that this business is a great public convenience and security; that parties interested may more readily and perhaps more cheaply procure desired information and abstracts; and that in case of loss thereof by theft or fire any portion of the records may be duplicated from the abstract office. * * *

> We are of opinion that the statute in question was not designed to allow individuals who wish to abstract the entire records for future profit in their private business, the privilege of using continuously the public property, and of monopolizing from day to day, for months and years, a portion of the time and attention of a public officer against his will and without compensation.

To the same effect is the case of *Newton* v. *Fisher* (1897), 98 N. C. Rep., p. 20.

In this case it was held that "While it is the duty of the register of deeds to permit all persons to inspect the records committed to his custody, he will not be required, without the payment of his fees, to allow anyone to make copies or abstracts therefrom."

The opinion of the court in this case is as follows:

> * * * No one has the right, to use the language of the learned judge in the court below, "to make copies or abstracts of the entire records of the office, including those instruments in which the person so desiring to make abstracts, etc., is not at the time interested, but simply anticipates that he will be at some time interested, and abstracts of which he desires to make for mere speculative purposes. This might have the effect to transfer from the register's office to the office of the attorney who might have a place of business more conveniently located a large part of the business and emoluments of the register of deeds, as no one would have the right to make copies of the records in the office of the register except upon

payment of the fees allowed by law for copies, and this would deprive the register of the emoluments of his office. Under this view the plaintiff would be entitled to every facility for the legitimate prosecution of his business by access to the records for the examination of instruments registered; but the court is not satisfied of his right to make an abstract of all transfers of real and personal property for the year 1896, without having an interest in the same, for the prosecution of his business or paying any fee therefor. If he has the right to make abstracts of all the records of 1896, he has the right to make them for all the years; and if he has the right to copy or make abstracts of parts of the records, it may be the material parts, he has the right to copy the whole. If it is the right of one, it is the right of all. Once concede this right and where will it end? The records of this court, of all the courts, of the executive departments, of all the public offices in the State would be subject to the same right in every individual in the State, and aside from the loss of just emoluments to public officers, the dangers and risks which they might incur in possible injury to the records affecting public and private rights, make it manifest that such right can not exist. It is not the right of all—it is not the right of one.

And again, in the case of *Buck and Spencer* v. *James D. Collins* (51 Ga., 391), it was held that—

A private citizen has not the right, against the consent of the superior court and without the payment of his fees, to examine the books

> of record in his office for the purpose of making a full abstract of the contents thereof, from the clerk's books, for publication.

And in the case of *Randolph's Estate, ex rel. Collier et al.* (82 Ala. Rep., 527), it was held by Chief Justice Stone:

> We said that it was not the unqualified right of every person to demand access to and inspection of the books or documents of a public office, though they are the property of the public and preserved for public uses and purposes.

See also *Weber* v. *Townley* (43 Mich. Rep., 534, 1880).

The right of the public to inspect the records of the clerk's office, as well as to make abstracts therefrom, has in several instances been considered both by the Federal courts and Government officials.

In November, 1885, the clerk of the United States court at Indianapolis wrote to the Attorney-General complaining that certain law firms had made private indexes from the public records of the clerk's office, and requested that the firms be enjoined from using them. This letter, together with the following instructions and opinion, was forwarded by the Attorney-General to the attorney for the United States at Indianapolis:

> WASHINGTON, *November 25, 1885.*
>
> J. E. LAMB, Esq.,
>
> *United States Attorney, Indianapolis, Ind.*
>
> SIR: Inclosed is a copy of a letter of the 19th instant from Noble C. Butler, clerk United States courts, Indianapolis.

He asks that certain law firms practicing in the United States courts, namely, William G. Anderson and Elliott & Butler, be enjoined from using certain private indexes which they had made from the public records of the clerk's office.

The basis of such an injunction is the theory and practice of the Department and the accounting officers of the Treasury that the expenses of the clerk's office must be paid before the clerk is entitled to receive compensation for his services, and inferentially this theory and practice means that all the earnings of the clerk's office primarily belong to the United States, out of which, by law, the Attorney-General allows a compensation to the clerk.

The Government must retain its right to its own fees. By its fee bill it has fixed a charge against all persons who ask for searches for information within the exclusive control of the Government's officer.

By the collection of this and other fees the Government is enabled to pay its officers, and forbids the practice of any private ingenuity to deprive the Government of its right to these fees as an injury to the Government that must be enjoined.

You will take such steps in this case as will succeed in putting an end to the practice above mentioned, either by requiring the parties who have the indexes mentioned to surrender them to the charge of the clerk of the court, quietly and without further action, or you will proceed to enjoin them from the use of the indexes.

It is hoped that you may be able to secure the desired end without resorting to the process of the courts, otherwise this is your authority for enjoining them from acts which deprive the Government from the enjoyment of its proper revenue.

Very respectfully,

A. H. GARLAND,
Attorney-General.

A bill in equity was thereupon filed against the said law firms asking for orders restraining them from using the indexes so made. The cases were heard before Walter Q. Gresham, and after a full hearing decided in favor of the United States, and decrees duly entered.

As has been stated, there are conflicting decisions, and this fact should be an additional reason why the writ of certiorari should be granted.

Respectfully submitted.

JOHN K. RICHARDS,
Solicitor-General.

JAMES M. BECK,
Assistant Attorney-General.

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